



County of Los Angeles CHIEF EXECUTIVE OFFICE

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WILLIAM T FUJIOKA
Chief Executive Officer

April 9, 2010

Mr. Honesto Gatchalian
Ms. Maria Salinas
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California Public Utilities Commission
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Second District

ZEV YAROSLAVSKY
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MICHAEL D. ANTONOVICH
Fifth District

Dear Mr. Gatchalian and Ms. Salinas:

DRAFT RESOLUTION E-4329 APRIL 22, 2010 PUBLIC UTILITIES COMMISSION MEETING

On behalf of the Los Angeles County Board of Supervisors, this is to provide comments on the Energy Divisions' draft Resolution E-4329 (draft Resolution) dated March 23, 2010, which is set to be considered by the California Public Utilities Commission (PUC) at the April 22, 2010 meeting.

Draft Resolution E-4329 Fails to Include Changes to Southern California Edison's Original Request Which Were Agreed Upon By Edison and Local Governments

As you are aware, the Los Angeles County Board of Supervisors strongly opposed Southern California Edison's (Edison) original proposal requesting the PUC to eliminate the longstanding customer option of placing certain types of electrical distribution system equipment underground and to additionally allow existing underground equipment to be relocated aboveground during planned maintenance or capacity upgrades. Because of the County's concerns, which are shared by many local governments, the PUC urged Edison to work cooperatively with the concerned local agencies to address their critical issues.

As a result of the PUC's direction, Edison had intense discussions with the County and other local governments on these critical issues. Based upon the negotiations, Edison submitted a revised proposal which: 1) no longer called for the relocation of existing underground equipment to aboveground locations during planned maintenance or capacity upgrades that are not associated with major customer-driven construction activities; and 2) recognized that equipment installed aboveground must comply with all local zoning ordinances unless those zoning ordinances would require that the equipment be located underground. Critically, these key agreed-upon changes to Edison's original proposal applied to all areas where electrical distribution equipment could be located—both within and outside of the public right of way. These changes are attached for your convenient review (Attachment I)

"To Enrich Lives Through Effective And Caring Service"

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The redraft of the resolution which Edison submitted in its March 12, 2010 Supplemental Advice Letter 2334-E-A, if adopted by the Commission, would have been adequate to remove the County's opposition to Edison's requested rule change and cause the County to not take action to further challenge the PUC's action. The County's position in this regard was included in the January 15, 2010 letter from the Board of Supervisors to the PUC.

Draft Resolution E-4329 Fails to Require Edison to Comply with Local Ordinances Protecting the Public Health, Safety, Welfare, and Convenience

Unfortunately, while the draft Resolution that was subsequently issued by the PUC is an improvement over Edison's original proposal, it still fails to incorporate several key substantive elements of the agreement reached by the County and Edison. First, the draft resolution does not provide adequate assurances that Edison will comply with local laws protecting public health, safety, welfare, and convenience. Specifically, draft Ordering Paragraph 4 inexplicably limits Edison's obligation in this regard to installations "on private property" thus leaving the key issue of equipment located anywhere outside of private property (which is not a defined term) unresolved by this draft resolution. Critically, this category of unprotected equipment may include existing aboveground equipment being modified in the public right of way under pre-existing tariff language. In order to eliminate the remaining aesthetic problems that this rule change would cause, as well as ongoing disputes over the intent of this provision, the PUC should reinstate the earlier agreed-upon requirement that Edison must comply with local ordinances as long as those ordinances do not unfairly single-out Edison equipment or directly or effectively require Edison to locate equipment underground. This common-sense protection of the public interest should not be narrowly constrained to only one type of property.

Draft Resolution E-4329 Fails to Prohibit Edison From Relocating Existing Underground Equipment to Aboveground Locations as Part of Planned Maintenance or Capacity Upgrades

The draft Resolution would arguably allow Edison to continue to relocate underground equipment to an aboveground location on a customer's property during planned maintenance or capacity upgrades. Once again, this is contrary to the agreement that the County previously reached with Edison, which stated that this resolution would not mandate the conversion of existing underground equipment to aboveground locations—regardless of where that equipment is located—except in circumstances in which capacity upgrades, conversions, and relocations are required due to customer-driven renovations of existing structures (or other building activities) that are so significant that they result in a change of use or occupancy as defined in state or local law.

The draft Resolution's allowance of these conversions on customer's property during planned maintenance appears to stem from a basic factual misunderstanding evident throughout the draft Resolution, which is most particularly stated in draft Finding 13. In fact, contrary to this finding, the County's concerns over matters of aesthetic protection are not limited solely to the public rights of way only. Rather, these concerns extended to properties located outside of the public right of way as well, since their adjacency to the right of way may create severe cumulative aesthetic impacts to public views that are nearly as severe as if the aboveground equipment had been located within the right of way itself.

Mr. Honesto Gatchalian
Ms. Maria Salinas
April 9, 2010
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Draft Resolution E-4329 Fails to Acknowledge That the Proposed Rule Change is Subject to the California Environmental Quality Act in That it is a Discretionary Action Which Would Have a Potential Adverse Impact on the Environment

Finally, this draft Resolution fails to take note of the County's comments submitted along with the January 15, 2010 letter noting that the PUC's proposed rule change is a discretionary project subject to the requirements of the California Environmental Quality Act and that this action has the potential to have a significant cumulative impact. The County hereby incorporates by reference its comments of January 15, 2010 in this letter. We would like to underscore that it is the County's fervent hope that the PUC staff will ensure that the potential aesthetic impacts of this proposed rule change are fully addressed so as to avoid the need for any further action to resolve this issue.

In light of these remaining unresolved points of disagreement, Los Angeles County must remain opposed to the proposed changes contained in the draft Resolution, unless they are amended to incorporate the substantive provisions of the County's previous agreement with Edison. Attached for your review and consideration are the County's recommended changes to the draft Resolution that, if adopted, will cause the County to remove its opposition to the PUC's proposed rule changes (Appendix).

Thank you in advance for your consideration of our requested changes to the draft Resolution and we look forward to working with you on these critical issues.

Sincerely,



WILLIAM T FUJIOKA
Chief Executive Officer

WTF:LS:os

Attachments

- c: Supervisor Gloria Molina, First Supervisorial District
- Supervisor Mark Ridley-Thomas, Second Supervisorial District
- Supervisor Zev Yaroslavsky, Third Supervisorial District
- Supervisor Don Knabe, Fourth Supervisorial District
- Supervisor Michael D. Antonovich, Fifth Supervisorial District
- Sachi A. Hamai, Executive Officer, Board of Supervisors
- Andrea Sheridan Ordin, County Counsel
- Werner Blumer, Energy Division, California Public Utilities Commission

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ATTACHMENT I

FINDINGS AND CONCLUSIONS

1. SCE's standard Equipment installations that are paid for in rates are above ground.
2. Currently, when applicants request new service, SCE's installation for the distribution system Equipment needed, such as transformers, switches, capacitors, and junction bars (Equipment), is above-ground, not underground.
3. Rules 2, 15 and 16 allow applicants the option, at extra cost, to have distribution Equipment installed underground.
4. Over the last two years less than 20% of new SCE distribution system Equipment was requested installed underground, and other California utilities have already discontinued the Applicant option of installing Equipment underground.
5. In AL 2334, SCE seeks approval to delete the Applicant underground option in order to make its Equipment more accessible for installation, maintenance and repair, and safer for employees.
6. SCE proposes that, when its existing underground Equipment is part of a planned maintenance program or capacity upgrade it would be relocated on pads above ground to the extent technically feasible.
7. "Technically feasible" means that enough space is, or can be made, available above or below ground (as the circumstance suggests) for the electrical distribution Equipment needed for SCE to serve customers, and that other factors such as the obtaining of required permits are met. The required space is defined by existing design standards within the operation and maintenance requirements that are in compliance with applicable safety codes and regulations such as the Commission's General Orders 95 and 128.
8. Whether to allow for below-ground Equipment designs or above-ground Equipment designs is within the Commission's exclusive jurisdiction.
9. When relocating existing Equipment, SCE states it would comply with local jurisdictional mandates in matters of health, public safety, welfare and convenience if those regulations do not directly or effectively require the Equipment to be located underground or otherwise conflict with the design standards contained in SCE's Distribution Design Manual and similar documents, and also would comply with any state law of "equal dignity" to the PU Code, and federal laws, e.g., the Americans with Disabilities Act (ADA).
10. Because of the present lack of clarity regarding certain issues raised when conversion of existing underground equipment to above-ground is contemplated, the Commission will only address in this Resolution: (1) new construction situations, (2) circumstances in which capacity upgrades, conversions, and relocations are required due to customer-driven renovations of existing structures or other building activities resulting in a change of use or occupancy as defined in state or local law, and (3) situations in which above-ground retrofit into the public right-of-way is agreed to by the local authority and SCE on a case-by-case basis.
11. For a new connection or a capacity upgrade such as described in Finding 10, the customer must provide a private easement for the Equipment above ground at no cost to SCE, ratepayers or taxpayers in accordance with SCE's Commission-approved tariffs (e.g., Rule 15 or Rule 16), unless the local authority authorizes placement of the Equipment in the above-ground public right-of-way. Where the existing or required new facilities would primarily serve a single Applicant or developer as defined in SCE's tariff Rules 2, 15 or 16, the Applicant or customer must provide a private easement on its property, or the installation will be as otherwise agreed to by the local authority.
12. The party responsible for the cost of new Equipment installed in the above-ground public right-of-way, or its relocation into the above-ground public right-of-way, will also be responsible for the cost of ongoing mitigation of graffiti thereon.
13. Local laws and ordinances may apply aesthetic conditions, maintenance and location requirements (e.g., setbacks, screening requirements, etc.) to Equipment on private property if those conditions and requirements do not directly or effectively prevent Equipment from being located above-ground or otherwise conflict with design standards contained in SCE's Distribution Design Manual or similar documents.
14. It is not useful or practical to conclusively define all Equipment because the future needs of the distribution system require flexibility.

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Deleted: For existing underground Equipment being moved by SCE can obtain the easement at a reasonable cost using ratepayer funds.¶
"Reasonable cost" should mean that the total cost of above-ground Equipment, including easement acquisition and aesthetic surface improvement and maintenance costs, is not to exceed the total cost of accommodating the new or larger Equipment underground.

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<#>Local laws and ordinances may apply similar conditions to Equipment on private property.¶
<#>When the reasonable cost test cannot be met, Equipment relocated by SCE from underground to above ground pad-mount should be installed in the public ROW per franchise agreements.¶

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15. This AL was initially suspended for 150 days after filing and a transition period of at least 90 days will follow approval.
16. Developers and others have had over 6 months' notice of the possible need to accommodate new above-ground requirements.
17. Individual undergrounding conversion projects under Rule 20-C have a clear effective start date to establish whether they were signed before or after the date barring underground Equipment.
18. Larger ratepayer-funded or supported undergrounding conversion projects under Rule 20-A or 20-B may have more complex schedules making it unclear when the changes adopted in this Resolution apply to them.
19. SCE should define the triggering event within the schedule of undergrounding conversion projects after which Equipment may no longer be installed underground.
20. Nothing in this Resolution is intended to alter the balance of jurisdiction as between the Commission and other governing authorities, or the terms of any franchise agreement, with respect to the matters dealt with herein.
21. Local governments have a unique obligation as stewards of the public right-of-way, both above- and below-ground, and unique responsibilities and prerogatives in matters of land use planning. SCE states that it will continue to respect those roles as it cooperates with local governments, as it does with customers, in providing electric service to public projects.

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THEREFORE IT IS ORDERED THAT:

1. This Resolution is effective solely as to SCE and solely as to the circumstances identified in Finding and Conclusion 10 of this Resolution.
2. SCE shall file a supplemental Advice Letter AL 2334-E-A within 45 days to modify Rules 2, 15, and 16, where applicable, to comply with Ordering Paragraphs 3 through 8.
3. SCE shall amend Rules 2, 15, and 16, where applicable to state:
In plans for service submitted to SCE on or after [a date 90 days after the effective date of this Resolution], it shall be the responsibility of the Applicant to provide for the above-ground installation of Equipment that will serve the Applicant. The installation of new Equipment shall comply with local laws and ordinances to the extent the same do not directly or effectively require the Equipment to be located underground or otherwise conflict with design standards contained in SCE's Distribution Design Manual or similar documents.
4. The Applicant's design and installation of such above-ground Equipment shall comply with the typical installations depicted in SCE's Above-Ground Equipment Aesthetics Improvement Manual and SCE's Distribution Design Manual, as well as other local agency land use law to the extent the same would not directly or effectively require the Equipment to be located underground.
5. When modifying existing Equipment installed in the above-ground public right-of-way, SCE shall comply with local ordinances respecting matters of public health and safety, welfare and convenience to the extent the same are of general applicability to other structures or equipment, regardless of ownership, installed in the public right-of-way, do not directly or effectively require the Equipment to be located underground or otherwise conflict with the design standards contained in SCE's Distribution Design Manual and similar documents.
6. SCE shall include in Rules 2, 15 and 16, where applicable:
The party responsible for the cost of new Equipment installed in the above-ground public right-of-way, or the relocation of Equipment into the above-ground public right-of-way, will also be responsible for the cost of abating graffiti on such equipment. SCE will respond within 48 hours to requests for such maintenance of such surface improvements in the public ROW.
7. SCE shall define in its tariffs and forms the triggering event within ongoing undergrounding project schedules that starts the transition period of 90 days, after which Equipment may no longer be installed underground.
8. Using consistent terminology, SCE shall also define when inactive projects will be terminated.
9. SCE shall incorporate OP 7 and 8 after consultation with the BIA.

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Deleted: SCE's aesthetic surface improvement options for above-ground Equipment will not override local laws and ordinances applicable to similarly sized facilities of public convenience and necessity (e.g. traffic controls, telecommunication equipment, mail boxes, hydrants, waste receptacles.

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This resolution is effective today.

APPENDIX

PROPOSED FINDINGS AND ORDERING PARAGRAPHS

DRAFT

FINDINGS AND CONCLUSIONS

1. SCE's standard equipment installations that are paid for in rates are above ground.
2. Currently, when applicants request new service, SCE's standard design calls for the distribution system equipment needed, such as transformers, switches, capacitors, and junction bars (equipment), to be located aboveground.
3. Currently, Rules 2, 15 and 16 give applicants the option, at extra cost, to have conductors and/ or distribution Equipment installed underground.
4. Over the last two years less than 20% of new SCE distribution system Equipment was requested by applicants for service to be installed underground.
5. Other California utilities have already discontinued the option of installing Equipment underground.
6. SCE seeks approval to delete the applicant-requested Equipment underground option in order to make its Equipment more accessible for installation, maintenance and repair, and safer for employees.
7. "Technically feasible" means that enough space is, or can be made, available above ground for the electrical distribution Equipment needed for SCE to serve customers and that other requirements, such as obtaining ~~non-discretionary-the required~~ permits, ~~can be~~are met. The required space is defined by existing design standards within the operation and maintenance requirements that are in compliance with applicable safety codes such as the Commission's General Orders 95 and 128.
8. When relocating existing Equipment, SCE ~~should~~ shall comply with local jurisdictional mandates in matters of health, public safety, welfare, and convenience if those regulations do not directly or effectively require the Equipment to be located underground or otherwise conflict with the design standards contained in SCE's Distribution Design Manual and similar documents, and also would comply with any state law of "equal dignity" to the PU Code, and federal laws, e.g., the Americans with Disabilities Act (ADA).
9. For new line and service extensions or upgrades and relocations, the customer must provide a private easement for the Equipment at no cost to SCE, ratepayers or taxpayers, in accordance with SCE's Commission-approved tariffs (e.g., Rule 15 or Rule 16), unless the local authority authorizes placement of the Equipment in the above-ground public ROW.

10. For existing underground Equipment ~~in the public ROW not dedicated to a specific customer and~~ being modified by SCE, ~~SCE proposes installation in a private easement above ground if SCE can obtain the easement at a reasonable cost~~above-ground retrofits shall only occur in circumstances in which capacity upgrades, conversions and relocations are required due to customer-driver renovations of existing structures or other building activities resulting in a change of use or occupancy as defined in state or local law; or when agreed to by the local authority and SCE on a case-by-case basis.
11. Local laws and ordinances may apply aesthetic conditions, maintenance and location requirements (e.g., setbacks, screening requirements, etc.) to Equipment on private property if those conditions and requirements do not directly or effectively prevent Equipment from being located aboveground or otherwise conflict with design standards contained in SCE's Distribution Design Manual or similar documents.
12. It is not useful or practical to conclusively define all Equipment because the future needs of the distribution system require flexibility.
13. SCE's proposed rule changes for above-ground Equipment installation were heavily protested with respect to their application to public rights of way.
14. Because the protests to SCE's proposal, with respect to location of aboveground Equipment in public rights of way, raise a number of legal, policy, and factual issues, the application of SCE's proposed rule changes to public rights of way should be denied without prejudice as inappropriate for disposition via an Advice Letter and Resolution.
15. Local governments have a unique obligation as stewards of the public right-of-way, both above- and below-ground and unique responsibilities and prerogatives in matters of land use planning.
16. Nothing in this Resolution is intended to alter CPUC authority, the balance of jurisdiction between the Commission and other governing authorities, or the terms of any franchise agreement, with respect to the matters dealt with herein.

THEREFORE IT IS ORDERED THAT:

1. For existing underground Equipment being modified by SCE, above-ground retrofits shall only occur in circumstances in which capacity upgrades, conversions and relocations are required due to customer-driver renovations of existing structures or other building activities resulting in a change of use or occupancy as defined in state or local law; or when agreed to by the local authority and SCE on a case-by-case basis.
2. When modifying existing Equipment installed in the above-ground public ROW, SCE shall comply with local ordinances respecting matters of public health and safety, welfare and convenience, to the extent the same are of general applicability to other utility or public works structures or equipment, regardless of ownership, installed in the public right-of-way, do not directly or effectively require the Equipment to be located underground or otherwise conflict with the design standards contained in SCE's Distribution Design Manual and similar documents.
- ~~1.3.~~ The revised tariff language of Electric Rules 2, 15 and 16 as proposed by SCE in supplemental Advice Letter AL 2334-E-A is approved for application to private property only.
- ~~6.4.~~ The revised tariff language of Electric Rules 2, 15 and 16 as proposed by SCE in supplemental Advice Letter AL 2334-E-A is denied except for those matters contained in Ordering Paragraphs 1-2, without prejudice, for purposes of application to public rights of way.
- ~~3.5.~~ If SCE wishes to propose tariff language changes related to public rights of way, SCE must file an application with the Commission for that purpose, and serve any such application on all protesters and parties that commented on either AL 2334-E CPUC or draft Resolution E-4241.
- ~~4.6.~~ Design and installation of any above-ground Equipment as authorized in this Resolution for installation on private property shall comply with the typical installations depicted in SCE's Above-Ground Equipment Aesthetics Improvement Manual and SCE's Distribution Design Manual, as well as other local agency land use law(s), including local ordinances respecting matters of public health and safety, welfare and convenience, to the extent the same would not directly or effectively require the Equipment to be located underground.
- ~~8.~~
- ~~5.7.~~ SCE will also be responsible for the cost of abating graffiti on equipment installed above ground under the terms of this Resolution, but not for the cost of maintenance of customer-selected aesthetic mitigation options. SCE will respond within 48 hours (two business days) to requests for graffiti abatement, absent inclement weather or other exigent circumstances.

~~6-8.~~ Using consistent terminology, SCE shall also define in its tariffs and forms when inactive projects will be terminated.

~~7-9.~~ SCE shall file a Supplementary Advice Letter within 45 days to modify Rules 2, 15, and 16, where applicable, to comply with Ordering Paragraphs ~~21-4, and 6-8, 5 and 6~~ of this Resolution.

This Resolution is effective today.

CERTIFICATE OF SERVICE

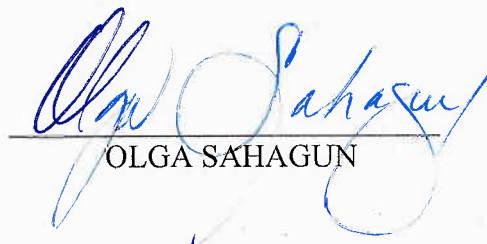
I, OLGA SAHAGUN, certify that I served by overnight mail, via Federal Express this day, true copies of the April 9, 2010 Comments of the County of Los Angeles to Draft Resolution E-4329 / April 22, 2010 Public Utilities Commission Meeting, to the following recipients:

Honesto Gatchalian/ Maria Salinas
Energy Division
California Public Utilities Commission
505 Van Ness Avenue
San Francisco, CA 94102

Werner Blumer
Energy Division
California Public Utilities Commission
505 Van Ness Avenue
San Francisco, CA 94102

I, OLGA SAHAGUN, further certify that I served by regular mail this day, true copies of the April 9, 2010 Comments of the County of Los Angeles to Draft Resolution E-4329 / April 22, 2010 Public Utilities Commission Meeting, on all parties in these filings or their attorneys as shown on the attached list.

Dated April 9, 2010 in Los Angeles, California.


OLGA SAHAGUN

Service List for Draft Resolution E-4329 (SCE AL 2334-E-A)

FIRST	LAST	TITLE	ORGANIZATION	STREET ADDRESS
Patrick	Lavin	Business Manager	IBEW	600 N. Diamond Bar Blvd.
Fassil	Fenikile	AT&T CA Regulatory		525 Market Street, Room 1925
Ross	Johnson	AT&T CA Regulatory		525 Market Street, Room 1944
Ron	Van Der Leeden	Director - Rates Revenues & Tariffs	Sempra Energy Utilities	8330 Century Park Court
Robert A.	Risso	Chief Admin. Officer	City of Bell	6330 Pine Ave.
Daniel	Schiada	Director of Public Works	City of Benicia	250 East L Street
Donna	Landeros	City Manager	City of Brentwood	708 Third Street
James A.	Biery	Director, Dept. of Public Works	City of Buena Park	P.O. Box 5009
Vince	Brar	Sr. Assistant City Manager	City of Cerritos	P.O. Box 3130
Andrew	Weissman	Mayor	City of Culver City	9770 Culver Blvd
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Timm	Borden	Deputy Director of Public Works	City of San Jose	200 E. Santa Clara St., T5
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Nasser	Abbaszadeh	Public Works Director	City of San Juan Capistrano	32400 Paeso Adelanto
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Brentwood	CA	94513	
Buena Park	CA	90622	
Cerritos	CA	90703	
Culver City	CA	90232	
Diamond Bar	CA	91765	
Downey	CA	90241	
Hidden Hills	CA	91302	
Huntington Beach	CA	92648	
Laguna Hills	CA	92653	
Laguna Woods	CA	92637	
Long Beach	CA	90802	
Long Beach	CA	90802	
Palm Springs	CA	92262	
Placentia	CA	92870	
Ranch Santa Margarita	CA	92688	
San Jose	CA	95113	
San Juan Capistrano	CA	92675	
San Juan Capistrano	CA	92675	
San Juan Capistrano	CA	92675	
Santa Clarita	CA	91355	
Stanton	CA	90680	
Thousand Oaks	CA	91362	
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Los Angeles County Supervisor
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